

Decision 02-03-060

March 21, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the
City of Point Arena for rehearing of
Resolution W-4308 to require legal
compliance with the provisions of
Public Utilities Code 311(g).

A.01-11-030
(Filed November 26, 2001)

ORDER GRANTING LIMITED REHEARING OF APPLICATION
FOR REHEARING OF RESOLUTION W-4308 TO MODIFY
DECISION AND DENYING REHEARING AS MODIFIED

The City of Point Arena (City) has identified legal error in Resolution W-4308. However, since the rates adopted are subject to refund, the error is not material. Herein we grant limited rehearing to modify the resolution to correct the error and deny rehearing as modified.

Resolution W-4308 (Resolution) was approved by us on October 25, 2001 under the procedures adopted by the Commission in 1996. Prior to 1996, it took an average of 263 days to process a small company's general rate case. We determined that this rather lengthy lag time between the beginning and the end of a rate case was inappropriate. Accordingly, we adopted the "Service Guarantee Plan," which applies to small water companies' general rate cases. Such companies are known as Class C and Class D Companies. Class C Companies, of which there are 23, have 500 to 2,000 customers. Class D Companies, of which there are 109, have between 6 and 500 customers. The "Service Guarantee Plan" provided an almost immediate (within four or five days of filing), simple mechanism to process the interim rate increase. The interim increase, subject to refund, is based on a cash flow analysis completed within one week of filing. This

analysis determines just how much the utility needs to operate and to pay its bills, including debt service.

The “Service Guarantee Plan” provides a relatively simple mechanism to allow for almost immediate interim rate relief to those companies needing it. Under Phase One of this plan, general rate case procedures are simplified, as follows: (1) the application is received by the water utilities branch; (2) the application is assigned to a staff analyst to check for completeness of filing; (3) the application is assigned to an auditor to analyze the company’s cash flow and the need for interim rate relief; and (4) a resolution is prepared granting interim relief, subject to refund at the conclusion of the proceeding. Under Phase Two of this plan, the company’s general rate case proceeds as it would normally.

The history of this case is as follows. By draft advice letter filed on June 26, 2000 and revised on January 11, 2001, Point Arena Water Works requested authority under Section 6 of General Order No. 96-A and Section 454 of the Public Utilities Code to increase rates by \$70,000 or 91.5%. In conjunction with this interim rate increase, by a letter dated September 18, 2002, Point Arena notified its customers that these filings were made. The Water Division auditor found that in the year 2000, Point Arena Water Works reported a loss of \$80,825 from water operations. In the company’s 1999 annual report, its net loss was \$15,700. Our Audit and Complaints Branch prepared a cash-flow analysis and estimated that an amount of \$47,677 would be necessary for the utility to meet its cash-flow requirements for the year 2001. In view of this negative cash-flow problem in 2000, the Water Division recommended that an interim rate increase of \$47,677 be granted to Point Arena, subject to refund, until permanent rates were determined and authorized in the upcoming general rate case. We followed the “Service Guarantee Plan” process, in granting Point Arena Water Works, a Class C water company, this interim increase of \$47,677.00 (62.3%). This interim increase will provide Point Arena with no rate of return on its rate base, but with sufficient money to pay its current cash operating expenses. It should be noted

that since the filing of the Application for Rehearing, Point Arena Water Works filed a further draft advice letter on January 14, 2002.

The basis for the application from the City for rehearing of Resolution W-4308 is that the City was denied the right to a 30-day public review and comment period. The City believes that given the number of contacts it has had with staff, it should be treated as a party under Public Utilities Code 311(g) under Rule 77.7(a). The City claims that to correct the legal error, the Resolution should be suspended, the 30-day public review and comment period reinstated and its protests included in our decision making process.

The major issues raised are whether the Resolution erred in stating no protests had been received and whether the City has triggered the 30-day period for public review under section 311(g)(2). Rule 77.7(a)(6) of our Rules of Practice and Procedure states that with respect to a resolution disposing of an advice letter, a “party” is “anyone filing a protest or response to the advice letter.” There is no doubt that the City filed a protest letter in a timely manner, and made verbal protests regarding the advice letter at issue. Therefore, the Resolution erred in stating that no protests had been received. The question is whether this is a material error that requires the grant of rehearing.

While we acknowledge the error in the Resolution at issue, we believe it to be harmless error, because the rate increase adopted in the Resolution is subject to refund. However, we note that since the increase granted is subject to refund, the City’s protests will be included in the record of the next phase of the general rate case. We also find that in the next phase of the general rate case, there will be numerous opportunities for the City and its people to offer their comments both informally and formally. Therefore, during the further proceedings in this case, the City and the citizens of the City of Point Arena will have ample opportunity to argue their case that a refund is appropriate.

We also welcome comments from all different groups within the community as this general rate case goes forward. We direct staff to work closely

with the protesters to make sure that all of their issues are investigated. It should be noted that the issues that were raised informally by the City are exactly those issues that will be analyzed during the rest of the rate proceeding. Therefore, reconsideration of this Phase One decision is unnecessary. Moreover, the City's due process rights are in no way violated by this Order, because the City will be able to raise these issues in Phase Two of the general rate case. Further, if the City is dissatisfied with the resolution of the general rate case proceeding, it will be able to apply for rehearing after our Decision is issued so long as it becomes a formal party in the next phase of the proceeding. We encourage the City to become a formal party and actively participate in this proceeding so that the guarantees and the rights that formal parties have will not be denied them in the future.

Therefore, this Order on Rehearing acknowledges the error and grants limited rehearing to modify Resolution W-4308 to note that the City did protest the rate increase. However, we find that the error is harmless error, because the rate increase adopted in the Resolution is subject to refund. The City will have the opportunity to raise all the issues it would have raised in protesting the advice letter in the upcoming phase of the proceeding. Thus, we deny rehearing of the Order as modified.

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THEREFORE, IT IS ORDERED that:

1. Limited rehearing of Resolution W-4308 is granted to correct the error. Further rehearing of this Resolution as modified is denied.

This Order is effective today.

Dated March 21, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners